

REMARKS

Claims 1-41 are pending in the present application, and stand rejected. Claim 41 has been cancelled. Claim 42 has been added. The Examiner's reconsideration of the claim rejections is respectfully requested in view of the following remarks.

Claim 7 stands rejected under 35 U.S.C. § 112, second paragraph. The rejection is respectfully traversed. Applicants respectfully submit that the term "rejuvenating," in the context of claim 7, is not indefinite. Applicants direct the Examiner to U.S. Patent No. 6,810,495, entitled "Method and System for Software Rejuvenation via Flexible Resource Exhaustion Prediction," which is commonly assigned. The cited patent provides description of the concept of software rejuvenation, as well as citations to technical papers regarding software rejuvenation. Withdrawal of the rejection under 35 U.S.C. § 112, second paragraph is respectfully requested.

Claims 1-41 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Sweet (U.S. Patent No. 6,836,800) (hereinafter "Sweet"). The rejections are respectfully traversed.

Claim 1 claims, *inter alia*, "*monitoring*, over a period of time, a contemporaneous resource utilization and a number of active devices to obtain monitored values of the contemporaneous resource utilization and the number of active devices." Claim 1 further claims, "*predicting* the subsequent resource utilization, based upon the monitored values of the contemporaneous resource utilization and the number of active devices."

In reference to claim 1, the Examiner cites col. 3, lines 25-41 of Sweet, which describe Figures 1 and 2 of the reference. Figure 1 of Sweet illustrates a system for *automatic signature detection*. A signature is a statistically detectable pattern in

measurement data (e.g., high data traffic vs. low data traffic). Figure 1 of Sweet utilizes data gathering software to acquire data, which is analyzed to determine whether a signature exists. Nothing in Sweet discloses that the data gathering software monitors the number of active devices. It should be noted that the *sole* purpose for use of the acquired data, as disclosed in Sweet, is to determine whether a signature exists. *No other purpose is disclosed*. Figure 2, step 1030, discloses that if a signature exists, then the signature may be used for purposes such as alarming on unusual activity, reporting and planning.

The recited portions of Sweet do not disclose *both* monitored values of the contemporaneous resource utilization over a period of time *and* monitored values of the number of active devices over a period of time.

Further, the recited portions of Sweet do not disclose *using those monitored values for predicting the subsequent resource utilization*. As previously noted, the data collection software of Sweet is only disclosed by Sweet for purposes of *signature detection*, which *directly contradicts* any statement arguing using such data for any other purpose.

The Examiner argues that “the number of active devices is integrated in to the system operation as shown in Figure 1.” Whether the Examiner’s argument is true or not is entirely irrelevant to *monitoring* the number of active devices to obtain *monitored values* of the number of active devices. Sweet does not disclose monitored values of the number of active devices, in addition to the monitored values of the contemporaneous resource utilization.

The Examiner notes that he is entitled to a broadest reasonable interpretation. Although that is true, the Examiner’s interpretation must come from some valid basis in the reference. As indicated above, Applicants are unclear as to what basis that is.

Particularly, the Examiner has not expressed *how* Sweet discloses (a) monitored values of the contemporaneous resource utilization, (b) monitored values of the number of active devices, and (c) a prediction of the subsequent resource utilization of the monitored values of (a) and (b). Applicants are effectively left to *guess* as to how the Examiner's plain citations to Sweet apply to the instant claims, thus far to no avail. Further, the Examiner's citations to boilerplate language (i.e., in the "Examiner's Considerations" section of the Office Action) do not resolve the above concerns. It may be helpful if the Examiner explained the citations in his own words, rather than simply reciting MPEP boilerplate.

With regards to claim 21, the Examiner states that "*signature detection* establishes monitored values for the active devices." As stated above, signature detection refers to statistically detectable patterns in measurement data, such as high data traffic and low data traffic. It is unclear how this has any relevance to the instant claims, which are not directed to the detection or use of signatures. It is also unclear what monitored values the Examiner is referring to since Sweet does not address monitoring *the number* of active devices. Further, Sweet does not even disclose "*identifying resource saturation*" under any circumstance.

Accordingly, independent claims 1 and 21 are believed to be patentably distinguishable over Sweet. Independent claims 31, 38, 39 and 40 are believed to be allowable for at least the reasons given for claims 1 and 21. The rejected dependent claims are believed to be allowable as depending from allowable base claims. Withdrawal of the rejection of claims 1-40 under 35 U.S.C. §102(e) is respectfully requested.

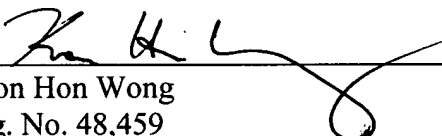
Claim 42 is also believed to be allowable for at least the reasons given for claim 1, and for the following additional reasons. Sweet does not disclose "wherein the monitored

number is capable of varying over the period of time.” Sweet also does not disclose “monitoring, over the period of time, a type of each of the active devices to obtain third monitored values of the type of the each of the active devices.” Further, Sweet does not disclose “predicting the subsequent resource utilization, based upon the first monitored values, the second monitored values, and the third monitored values.”

In view of the foregoing remarks, it is respectfully submitted that all the claims now pending in the application are in condition for allowance. Early and favorable reconsideration is respectfully requested.

Respectfully submitted,

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